

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

**BRIGHT CONSTRUCTION, INC.,**  
**a Missouri Corporation**

**Petitioner**

**vs.**

**CARPENTERS DISTRICT COUNCIL OF**  
**KANSAS CITY PENSION FUND,**

**Respondent**

**and**

**MELMORE CONSTRUCTION, INC.**  
**F/K/A DCM CONSTRUCTION, INC.**

**Respondent**

**Case No. 4:12-mc-09028-FJG**

**Consolidated with**  
**Case No. 4:13-CV-00181-FJG**

**RESPONDENT DCM CONSTRUCTION, INC.'S**  
**RESPONSE TO CARPENTERS DISTRICT COUNCIL OF KANSAS CITY PENSION**  
**FUND'S MOTION TO CONFIRM AND ENFORCE ARBITRATION AWARD**

COMES NOW Respondent Melmore Construction, Inc., f/k/a/ DCM Construction, Inc. ("DCM") and responds to Respondent Carpenters District Council of Kansas City Pension Fund's ("Pension Fund") Motion to Confirm and Enforce the Arbitration Award.

The Pension Fund's Motion asks the Court to confirm the Arbitration Award. The Arbitration Award found that Bright Construction, Inc. ("Bright") was subject to an assessment for withdrawal liability and that DCM *was not* subject to an assessment for withdrawal liability. As previously stated in DCM's Motion to Confirm, filed with this Court on September 23, 2013, neither Bright nor the Pension Fund moved within thirty (30) days of the Arbitration Award to vacate or modify the award as it related to DCM.

Furthermore, the Pension Fund's Motion to Confirm does not seek relief against DCM, as it is not requesting that the Arbitration Award be modified or vacated as to DCM, but only that the Award be confirmed and enforced, which, therefore, can only be limited to Bright.

**WHEREFORE**, as more fully set forth in DCM's Motion to Conform, DCM respectfully requests that pursuant to ERISA, 29 U.S.C. § 1401(b)(2), and the Federal Arbitration Act, 9 U.S.C. § 9, the Court enter an Order confirming the Arbitration Award as it relates to Respondent Melmore Construction, Inc., f/k/a/ DCM Construction, Inc., dismiss DCM from Case No. 09028 and Case No. 00181, as it is not a party to the companion case, and award all other relief it finds necessary, just and equitable.

Respectfully submitted,

**HAYNES BENEFITS PC**

By:  \_\_\_\_\_

Robert A. West  
1650 NE Grand, Suite 201  
Lee's Summit, Missouri 64086  
(816) 875-1919  
(816) 875-1920 – Facsimile Transmission

ATTORNEY FOR DCM CONSTRUCTION, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of October 2013, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel of record and a copy was sent by U.S. Mail, postage prepaid to:

Aaron J. Racine, Esq.  
Monaco, Sanders, Gotfredson,  
Racine & Barber, LC  
1411 East 104<sup>th</sup> Street, Suite 100  
Kansas City, MO 64131  
*Attorney for Petitioner,  
Bright Construction, Inc.*

Michael G. Newbold, Esq.  
Arnold, Newbold, Winter & Jackson, PC  
1125 Grand Avenue, Suite 1600  
Kansas City, MO 64106  
*Attorney for Defendant,  
Carpenters District Council of  
Kansas City Pension Fund*

  
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Robert A. West